

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA08-1487

J.F.

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 24, 2009

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT,
[NO. J-2008-497]

HONORABLE VICKI SHAW COOK,
JUDGE

AFFIRMED

JOSEPHINE LINKER HART, Judge

J.F. was adjudicated a juvenile delinquent upon the Garland County Circuit Court's finding that he had committed second-degree sexual assault. He appeals, arguing that the evidence was insufficient to support his adjudication. We affirm.

On July 15, 2008, an adjudication petition was filed alleging that J.F. had committed second-degree sexual assault. At the hearing on the petition, the eight-year-old victim L.A., L.A.'s parents, L.A.'s seventeen-year-old brother, and forensic interviewer Tracy Sanchez testified in the State's case. At the close of the State's evidence, J.F.'s trial counsel moved to dismiss, stating only, "I request a directed verdict." After the motion was denied, J.F. put on a case in which he denied the allegations. He also presented the testimony of neighbor Daniel Abernathy, who attempted to impugn the credibility of L.A. and her mother. Finally, J.F.'s own mother testified that she heard L.A. repeat the allegations that J.F. had pulled

down her pants and touched her “privates,” but contended that the child indicated that the touch occurred on her “hip” and did not seem concerned about the episode. J.F.’s trial counsel failed to make a motion to dismiss at the conclusion of all the evidence.

Although a delinquency adjudication is not a criminal conviction, it is based on an allegation by the State that the juvenile has committed a crime. *Rogers v. State*, 78 Ark. App. 103, 78 S.W.3d 743 (2002). The Arkansas Rules of Criminal Procedure apply to juvenile-delinquency proceedings. Ark. Code Ann. § 9-27-325(f) (Repl. 2008). Rule 33.1(b) of the Arkansas Rules of Criminal Procedure requires a defendant in a bench trial to challenge the sufficiency of the evidence at the close of all of the evidence, or such a challenge is waived. Here, J.F.’s trial counsel failed to make a specific directed-verdict motion, or indeed any motion at all, after he put on his case-in-chief. Accordingly, his challenge to the sufficiency of the evidence is not preserved for our review. Therefore, we affirm.

Affirmed.

GLOVER and MARSHALL, JJ., agree.